

final decision of the Secretary after remand.

(4) When an enrollee files written exceptions to the decision of the ALJ, the MAC may assume jurisdiction at any time. If the MAC assumes jurisdiction, it makes a new, independent decision based on its consideration of the entire record adopting, modifying, or reversing the decision of the ALJ or remanding the case to an ALJ for further proceedings, including a new decision. The new decision of the MAC is the final decision of the Secretary after remand.

(c) *MAC assumes jurisdiction without exceptions being filed.* (1) Any time within 60 calendar days after the date of the written decision of the ALJ, the MAC may decide to assume jurisdiction of the case even though no written exceptions have been filed.

(2) Notice of this action is mailed to the enrollee at his or her last known address.

(3) The enrollee will be provided with the opportunity to file a brief or other written statement with the MAC about the facts and law relevant to the case.

(4) After the brief or other written statement is received or the time allowed (usually 30 calendar days) for submitting them has expired, the MAC will either issue a final decision of the Secretary affirming, modifying, or reversing the decision of the ALJ, or remand the case to an ALJ for further proceedings, including a new decision.

(d) *Exceptions are not filed and the MAC does not otherwise assume jurisdiction.* If no exceptions are filed and the MAC does not assume jurisdiction over the case within 60 calendar days after the date of the ALJ's written decision, the decision of the ALJ becomes the final decision of the Secretary after remand.

Subpart V—Part D Marketing Requirements

SOURCE: 73 FR 54222, Sept. 18, 2008, unless otherwise noted.

§ 423.2260 Definitions concerning marketing materials.

As used in this subpart—

Marketing materials. Marketing materials include any informational mate-

rials targeted to Medicare beneficiaries which—

(1) Promote the Part D plan.

(2) Inform Medicare beneficiaries that they may enroll, or remain enrolled in a Part D plan.

(3) Explain the benefits of enrollment in a Part D plan, or rules that apply to enrollees.

(4) Explain how Medicare services are covered under a Part D plan, including conditions that apply to such coverage.

(5) May include, but are not limited to—

(i) General audience materials such as general circulation brochures, newspapers, magazines, television, radio, billboards, yellow pages, or the Internet.

(ii) Marketing representative materials such as scripts or outlines for telemarketing or other presentations.

(iii) Presentation materials such as slides and charts.

(iv) Promotional materials such as brochures or leaflets, including materials for circulation by third parties (for example, physicians or other providers).

(v) Membership communication materials such as membership rules, subscriber agreements, member handbooks and wallet card instructions to enrollees.

(vi) Letters to members about contractual changes; changes in providers, premiums, benefits, plan procedures etc.

(vii) Membership activities (for example, materials on rules involving non-payment of premiums, confirmation of enrollment or disenrollment, or nonclaim-specific notification information).

(6) Marketing materials exclude ad hoc enrollee communications materials, meaning informational materials that—

(i) Are targeted to current enrollees;

(ii) Are customized or limited to a subset of enrollees or apply to a specific situation;

(iii) Do not include information about the plan's benefit structure; and

(iv) Apply to a specific situation or cover member-specific claims processing or other operational issues.

[70 FR 4525, Jan. 28, 2005, as amended at 75 FR 19825, Apr. 15, 2010]